

**COUNTY OF SAN DIEGO, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Subject**

Request to Form or Annex to a Special District for New Developments

**Policy  
Number**

I-112

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Purpose

To establish conditions under which the County will consider the formation of special districts for new developments.

Background

The County Service Area Law (Government Code Sections 25210.1, et seq.), Permanent Road Division Law (Streets and Highways Code Sections 1160 through 1197), and the Landscape and Lighting Act of 1972 (Streets and Highways Code Sections 22500, et seq.) were enacted because rapid growth in unincorporated areas resulted in the desire of residents for higher levels of service than normally provided by the counties. Special districts may be formed to provide certain services within a defined geographical area. County Service Areas may provide for maintenance of roads, street lights, landscaping, parks, or drainage facilities, as well as many other services authorized by law. Permanent Road Divisions are limited to providing constructions and maintenance for road related items including grading, paving, drainage structures, street lighting, and roadway landscaping. Landscape and Lighting Districts may provide for public lighting and landscaping as well as park and recreation acquisition and maintenance.

Proceedings to form or annex to a special district may be initiated by the Board of Supervisors or by petition of benefiting property owners. Developers may request formation or annexation to a special district to maintain public improvements connected with their projects as an alternative to using mandatory homeowners associations to assume these responsibilities. However, thorough discussions and determinations about the appropriateness of district maintenance must take place between developers and County staff prior to drafting conditions of approval for any development project proposing such maintenance. The role of County staff is to protect both the future homeowners who must pay for maintenance and the taxpayers who could share liability. Therefore, for liability reasons, it is important to separate public and private responsibility and to provide guidelines as to when public responsibility through a special district may be utilized for private developments. Special districts are not replacements for homeowners associations.

Policy

It is the policy of the Board of Supervisors that:

1. Special districts may only be used to maintain public improvements on public property or easements. Communal maintenance of private improvements or private property is provided through a mandatory homeowners association, maintenance agreement, or other mechanism.

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2. A developer may request formation or annexation to a special district for maintenance of the following:
  - a. Public roads constructed to Private Road Standards.
  - b. Landscaping of public slopes, parkways, or medians.
  - c. Public drainage facilities such as detention basins.
  - d. Public park landscaping and/or facilities.
  - e. Other public facilities allowed by law.
3. The applicant must pay all costs to form or annex to the special district and must obtain ballot approval, if required, of the maximum levy rate needed to provide district maintenance of the improvements.
4. The applicant must construct all improvements to be maintained by the district in accordance with plans and specifications approved by the appropriate County department and section which is responsible for administering the district.
5. The applicant must deposit with the district sufficient funds to provide for the first year's maintenance by the district.
6. Maintenance by the district will not begin until:
  - a. The public improvements and easements have been accepted by the County;
  - b. The landscaping, if any, has been satisfactorily established for two years; and
  - c. A maintenance contract has been awarded or other provision made for maintenance.
7. During the applicant's maintenance period, the contractor will provide insurance naming the County an additional insured, and also enter into hold harmless and indemnification agreements with the County.
8. No action under the provisions of this policy shall result in a negative impact on the amount of parkland available to the public. It is the policy of the Board to provide the maximum park acreage possible to the public.

Sunset Date

This policy will be reviewed for continuance by 12-31-09.

Board Action

3-16-88 (19)

6-15-93 (41)

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11-17-99 (11)

08-07-02 (5)

CAO Reference

1. Department of Public Works
2. Department of Parks and Recreation